

REMARKS

Claims 2-9 are presently pending in this application. Claims 2-4 and 7-9 have been rejected under 35 U.S.C. §102(a) as being anticipated by Fleming et al., in “Architectural Overview of Intel’s Bluetooth Software Stack” (hereinafter “Fleming”). Claims 5 and 6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fleming in view of U.S. Patent No. 6,041,075 to Caushik (hereinafter “Caushik”).

Applicants respectfully submit that the Action does not present a *prima facie* case for the rejections of the claims. In particular, Applicants submit that Fleming was not published before the invention by Applicants, or even before Applicants’ filing date, and accordingly request reconsideration and withdrawal of the rejections and allowance of all pending claims.

Rejection of Independent Claims 2-4 and 7-9 under § 102(a)

Claims 2-4 and 7-9 stand rejected under § 102 as anticipated by Fleming. However, the Office has not established that Fleming is a printed publication that was accessible to the public before the date of Applicants’ invention (*see, generally*, MPEP § 2128). Fleming bears a printed date of “Q2, 2000,” indicating publication in the second calendar quarter of 2000, which includes the months of April, May and June of 2000. Applicants filed the present patent application on April 24, 2000. Additional evidence confirms that Fleming was published after April 24, 2000. Most notably, the publisher’s (Intel) own website lists the publication date for the Q2 issue as May 5, 2000 (<http://developer.intel.com/technology/itj/q22000.htm>). Other online publishers, such as ZDNet and C|Net similarly list the publication date as May 2000. Thus, it appears that Fleming was not published before the Applicants filed their application.

It is submitted that since Fleming was not published until after Applicants filed the present application, Fleming cannot be considered as prior art under § 102. Applicants therefore respectfully request the withdrawal of the rejections and favorable reconsideration of claims 2-4 and 7-9.

In re Appln. of Giliberto et al.
Application No. 09/556,567

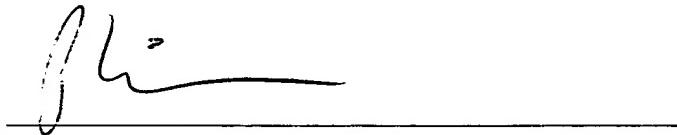
Rejection of Dependent Claims 5-6 under § 103

Claims 5-6 stand rejected under § 103 as obvious under Fleming in view Caushik. For the reasons discussed above, Fleming is not prior art, and thus cannot properly be used in combination with any other reference under § 103. Applicants therefore respectfully request the withdrawal of the rejections and favorable reconsideration of claims 5-6.

CONCLUSION

The application is now considered to be in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a further telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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